

SENATE RECORD VOTE ANALYSIS

105th Congress
2nd Session

Vote No. 280

September 22, 1998, 3:30 p.m.
Page S-10699 Temp. Record

BANKRUPTCY REFORM/Filing Fee Waiver

SUBJECT: Consumer Bankruptcy Reform Act . . . S. 1301. Grassley motion to table the Feingold/Specter amendment No. 3565 to the Grassley/Hatch substitute amendment No. 3559 to the committee substitute.

ACTION: MOTION TO TABLE FAILED, 47-52

SYNOPSIS: As reported with a substitute amendment, S. 1301, the Consumer Bankruptcy Reform Act, will enact reforms to prevent creditors who have the means of paying their debts from unjustly filing for bankruptcy, and will enact reforms to protect consumers from unfair credit practices.

The Grassley/Hatch substitute amendment would retain the underlying substitute amendment's provisions and would add provisions relating to business bankruptcies.

The Feingold/Specter amendment would allow a court to waive bankruptcy filing fees in those cases that it determined that the filers were unable to pay those fees.

Debate was limited by unanimous consent. After debate, Senator Grassley moved to table the Feingold/Specter amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

NOTE: After the vote, the amendment was adopted by voice vote.

Those favoring the motion to table contended:

Filing fees around the country range from \$110 to \$160. The number of bankruptcies has gone up by nearly 800 percent over the last 20 years. People who are seeking to escape from tens of thousands or hundreds of thousands of dollars in personal debt do not seem to be having much trouble finding the money to hire lawyers and to pay filing fees for bankruptcy. As one lawyer's advertisement in Texas puts it, "Bankruptcy can be a smart financial move . . . For \$350 total" he can help his clients escape from thousands of dollars in legitimate debts. If our colleagues' amendment passes, that lawyer will be able to knock another \$110 to \$160

(See other side)

YEAS (47)		NAYS (52)			NOT VOTING (1)	
Republicans (47 or 85%)	Democrats (0 or 0%)	Republicans (8 or 15%)	Democrats (44 or 100%)		Republicans (0)	Democrats (1)
Abraham	Hutchinson	Chafee	Akaka	Johnson		Glenn ²
Allard	Hutchison	Collins	Baucus	Kennedy		
Ashcroft	Inhofe	D'Amato	Biden	Kerrey		
Bennett	Kempthorne	Domenici	Bingaman	Kerry		
Bond	Kyl	Jeffords	Boxer	Kohl		
Brownback	Lott	Smith, Gordon	Breaux	Landrieu		
Burns	Lugar	Snowe	Bryan	Lautenberg		
Campbell	Mack	Specter	Bumpers	Leahy		
Coats	McCain		Byrd	Levin		
Cochran	McConnell		Cleland	Lieberman		
Coverdell	Murkowski		Conrad	Mikulski		
Craig	Nickles		Daschle	Moseley-Braun		
DeWine	Roberts		Dodd	Moynihan		
Enzi	Roth		Dorgan	Murray		
Faircloth	Santorum		Durbin	Reed		
Frist	Sessions		Feingold	Reid		
Gorton	Shelby		Feinstein	Robb		
Gramm	Smith, Bob		Ford	Rockefeller		
Grams	Stevens		Graham	Sarbanes		
Grassley	Thomas		Harkin	Torricelli		
Gregg	Thompson		Hollings	Wellstone		
Hagel	Thurmond		Inouye	Wyden		
Hatch	Warner					
Helms						

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

off his price. Another problem is that it would further burden a court system that is already severely strained. Even though bankruptcy proceedings have increased, the number of judges has not. If this amendment were to pass, their workload would become even greater because they would have to hear constant appeals for fee waivers. In summary, there has been no showing that there is any need for this amendment, and we do not favor further burdening bankruptcy courts absent any showing of any justification for imposing that burden. Therefore, we support the motion to table.

Those opposing the motion to table contended:

Bankruptcy is the only Federal court proceeding in which a poor person is not entitled to seek a filing fee waiver. The filing fee for consumer bankruptcy is \$175, which is more than many poor people's take home pay. When a poor person gets into consumer debt, this high fee can act as an insurmountable barrier to filing for bankruptcy. Congress, in recognition of this problem, set up a 3-year, 6-district pilot program under which fees could be waived for people who could not afford them. That pilot program, which ended September 30, 1997, proved that the concept is valid. Applications for waivers were only made in 3.7 percent of all Chapter 7 cases, and less than 1 percent of those applications were challenged by trustees. In other words, the right was seldom used, and when it was all sides agreed that it was appropriate. Extrapolating from this pilot program, a nation-wide waiver program would cost only \$4 million to \$5 million per year, and its costs could be offset merely by raising the price of Chapter 7 filings by between \$2.70 and \$3.40. The Feingold/Specter amendment would create such a nation-wide program. We urge our colleagues to support this amendment.